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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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09/989,628

11/20/2001

Dwight Inman

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05/07/2004

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EXAMINER

TORRES, MARCOS L

ART UNIT

PAPER NUMBER

2683

DATE MAILED: 05/07/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/989,628

Applicant(s)

INMAN ET AL.

Examiner

Marcos L Torres

Art Unit

2683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 2-20-2004 have been fully considered but they are not persuasive.

Regarding applicant argument's that Grace it is only restricted to specific temporal windows. Grace discloses that preferably a temporal window is defined (see page 4, lines 28-30); the word preferably is not restricting to a temporal window.

Regarding applicant argument's that Grace does not mention determining partial correlation. Grace discloses measuring the relatedness of parameters to see how much they are related (see page 3, line 32 – page 5, line 13). The current rejection in record stands.

2. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., without the use of threshold value) are not recited in the rejected claim(s).

Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harrison in view of Grace and further in view of Laakso.

As to claim 1, Harrison discloses a method for determining whether two or more parameters influence one another within a communications network (see abstract), comprising the steps of: obtaining a set of measurements for two or more parameters within the communications network (see page 1, lines 20-23); Grace disclose obtaining a set of measurements for two or more parameters within the communications network (see page 1, lines 8-15); determining a correlation between each of the two or more

parameters (see page 3, lines 7-21); determining a partial correlation between each of the two or more parameters (see page 3, line 32 – page 4, line 20); determining whether the correlations and the partial correlations are statistically significant (see page 4, lines 34-37); and determining whether the two or more parameters, if any, influence one another based on the statistically significant correlations and partial correlations (see col. 7, lines 6-28). Laakso discloses increasing reliability if more than two measurements are done (see col. 5, lines 45-48). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to combine Harrison and Grace teachings for the simple purpose of designing a reliable system with less faults conditions.

As to claims 2-11, Harrison discloses a list of parameters in a communication network to measure performance and quality (see page 1, lines 4-23;), and Grace discloses a list of parameters in a communication network to measure (see col. 1, lines 11-22). Also, OFFICIAL NOTICE is taken that using parameters to monitor system performance and quality is a common and well known in the art; therefore, it would be obvious to one of the ordinary skill in the art at the time of the invention to measure where data is or where is most convenient any parameter that affects the system.

As to claims 12-14, grace discloses the storage and retrieval of the measured parameters (see page 8, lines 3-30).

As to claim 15, Grace discloses identifying and solving a problem using the parameters (see page 6, line 32 – page 7, line 5).

Regarding claims 16-29, they are the corresponding apparatus claims of method claims 1-14. Therefore, claims 16-29 are rejected for the same reason shown above.

Regarding claims 30-43, they are the corresponding system claims of method claims 1-14. Therefore, claims 30-43 are rejected for the same reason shown above.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any response to this Office Action should be mailed to:

Commissioner of Patent and Trademarks
Washington, D.C. 20231

Or faxed to:

(703) 703-872-9314

For formal communication intended for entry, informal communication or draft communication; in the case of informal or draft communication, please label "PROPOSED" or "DRAFT"

Hand delivered responses should be brought to:

Crystal Park II
2121 Crystal Drive
Arlington, VA
Sixth Floor (Receptionist)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcos L Torres whose telephone number is 703-305-1478. The examiner can normally be reached on 8:00am-5:30pm alt. friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William G Trost can be reached on 703-308-5318. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.

Marcos L Torres
Examiner
Art Unit 2683

Mlt



WILLIAM TROST
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600